ACT No. XX OF 1896.

Received the assent of the Governor General on the 16th October, 1896.

An Act to amend the law providing for the relief of Jágírdárs and Zamíndárs in Sind.

WHEREAS it is expedient to amend the law providing for the relief of jágírdárs and zamíndárs in Sind; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title and commencement.

1. (*1*) This Act may be called the Sind Incumbered Estates Act, 1896; and

(*2*) It shall come into force at once.

Definitions.

2. In this Act—

(*1*) "jágír land" includes also a share held hereditarily of the revenues of a Government village, but does not include *siri* or *mámul* or garden grants:

(*2*) "jágírdár" means a person who, or whose ancestor, was found in possession of jágír land in Sind on the seventeenth day of February, 1843, and to whom the said land, or a portion of the same, or other land in lieu thereof, has been continued by the British Government, [a] as a jágír [a]:

(*3*) "zamíndár" means a person holding lands in Sind on the aggregate of which he or his ancestor has been assessed by the Government, on account of land-revenue for any one of the five revenue-years next before the [b] making of an application under section 3 by or in respect of or on behalf of such person [b] a sum not less than three hundred rupees; and a person holding lands in Sind which, having been comprised in the jágír lands of a jágírdár, and

[a-a] These words were substituted for the original words by Act II of 1906, s. 2 (*a*).

[b-b] These words and figure were substituted for the original words by Act II of 1906, s. 2 (*b*).

having ceased to be jágír lands, are assessed by the Government on account of land-revenue at a sum not less than three hundred rupees per year, and, where a joint family or any other body of co-owners hold lands of either of those descriptions, each member of that family or body who would be entitled to demand a partition of the lands: and

(*4*) "Commissioner" means the Commissioner in Sind.

CHAPTER II.

OF THE APPLICATION AND PRELIMINARY INQUIRY.

Application for the benefit of this Act.

3. (*1*) At any time after the commencement of this Act, any jágírdár or zamíndár, or any person who would be sole heir or one of the heirs to such jágírdár or zamíndár if he then died intestate, may apply in writing to the Commissioner, stating that such jágírdár or zamíndár is subject to debts or liabilities, other than debts due, or liabilities incurred, to Government, or that his immoveable property is charged with debts or liabilities other than as aforesaid, and requesting that the provisions of this Act be applied to his case.

(*2*) When any jágírdár, zamíndár or other person entitled to make an application under this section is a minor, or of unsound mind, or an idiot, such application may be made on his behalf by the guardian or other legal curator of his person, or by the legally constituted administrator or manager of his estate.

Order to inquire.

4. (*1*) When any such application is made by or on behalf of a jágírdár, or the person who would be his sole heir if he then died, the Commissioner shall direct an inquiry to be made by such officer as he thinks fit into the nature and amount of such debts and liabilities, and the sufficiency of the debtor's property, whether moveable or immoveable, to discharge the same.

(*Chapter II.—Of the Application and Preliminary Inquiry.—Section 5.*)

(*2*) When such an application is made in any other case, it shall be in the discretion of the Commissioner, subject to any general rules which may from time to time be made by the Governor of Bombay in Council in this behalf, either to reject such application or to direct an inquiry to be made as aforesaid.

Interim order of protection.

[a] **5.** (*1*) When the Commissioner has directed an inquiry under section 4, he may, if he thinks fit, further direct that, until he dismisses the application or appoints an officer under section 7, sub-section (*2*), clause (*c*),—

(*a*) all proceedings then pending in any Civil or Revenue Court or Office in British India, in respect of any of the debts and liabilities to which the debtor is subject, or which are charged on the whole or any part of his immoveable property, shall be stayed, and the operation of all processes, executions and attachments then in force for, or in respect of, such debts and liabilities shall be suspended; and

(*b*) no fresh proceedings, processes, executions or attachments shall be instituted in, or issued by, any Civil Court or Revenue Court or Office in British India in respect of such debts and liabilities.

[b] (*2*) Every direction given under sub-section (*1*) shall be deemed to afford protection to sureties of the debtor as well as to the debtor himself, unless in any case a surety has, by his bond, expressly accepted liability thereunder in the event of an order being made in respect of the debtor's property under section 7, sub-section (*2*), clause (*c*).

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[a] Section 5 was re-numbered section 5 (*1*) by Act II of 1906, s. 3.

[b] Sub-section (*2*) was inserted by Act II of 1906, s. 3.

(*Chapter II.—Of the Application and Preliminary Inquiry.—Sections 6-7.*)

Verified statement to be submitted.

6. (*1*) When an inquiry has been directed under section 4, the applicant shall, within a period to be fixed by the Commissioner, submit to the officer appointed to make such inquiry a statement duly verified by the said applicant, or by some other competent person, in the manner required by law for the verification of plaints and containing, so far as may be practicable, such details as to the debts and liabilities, and as to the sufficiency of the debtor's property, whether moveable or immoveable, to meet the same, as the Commissioner, or the said officer subject to his control, may require.

(*2*) If any such statement contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, such person shall be deemed to have intentionally given false evidence within the meaning of the Indian Penal Code. XLV of 1860.

Report of inquiry and proceedings thereon.

7. (*1*) The officer so appointed, after making inquiry, shall submit a report of the proceedings to the Commissioner.

(*2*) On receipt of such report, the Commissioner may—

(*a*) direct a further inquiry; or

(*b*) dismiss the application; or,

(*c*) by order published in the *Sind Official Gazette*, appoint an officer (hereinafter called the manager) to manage the immoveable property of the debtor, and to arrange for the liquidation of his debts in manner hereinafter provided.

(Chapter III.—Of the Order of Management.—Sections 8-9.)

CHAPTER III.

OF THE ORDER OF MANAGEMENT.

Order of management.

8. (*1*) An order made under section 7, sub-section (*2*), clause (*c*) (hereinafter called "the order of management"), shall extend to all immoveable property, including any interest in joint immoveable property, of or to which the debtor is on the date of its publication possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him during the continuance of the management, and to all debts and liabilities to which he is subject, or which are charged on the whole or any part of his immoveable property on the said date, and to the amount of any loan which may be received by the manager in the manner hereinafter provided.

(*2*) The management shall be deemed to commence from the date on which the order is published.

Effect of order of management.

9. On the publication of the order of management the following consequences shall ensue :

(*1*) all proceedings then pending in any Civil Court or Revenue Court or Office in British India in respect to the debts and liabilities mentioned in section 8 shall be stayed ; and the operation of all processes, executions and attachments then in force for, or in respect of, such debts and liabilities shall be suspended ;

(*2*) so long as the management continues, no fresh proceedings, processes, executions or attachments shall be instituted in or issued by any Civil Court or Revenue Court or Office in British India in respect of such debts and liabilities ;

[a] (*2a*) clauses (*1*) and (*2*) shall be deemed to afford protection to sureties of the debtor as well as to the debtor himself, unless in any case a surety has, by his bond, expressly accepted liability there-

[a] Clause (*2a*) was inserted by Act II of 1906, s. 4.

under in the event of an order being made in respect of the debtor's property under section 7, sub-section (*2*), clause (*c*);

(*3*) so long as the management continues, the debtor shall be incompetent—

(*a*) to enter into any contract involving him in pecuniary liability, or

(*b*) to mortgage, charge, lease or alienate the property under management or any part thereof, or

(*c*) to grant valid receipts for the rents and profits arising or accruing therefrom:

Provided that nothing contained in this clause shall be deemed to preclude the manager from letting, and the debtor from taking, the whole or any part of such property on such terms consistent with this Act as may be agreed upon between the parties;

(*4*) so long as the management continues, no person other than the manager shall be competent to mortgage, charge, lease or alienate such property or any part thereof.

Powers of manager.

10. The manager shall, during the management of the property, have all powers which the owner thereof might, as such, have legally exercised, and shall receive and recover all rents, [a] profits and other sums [a] due in respect of the property under management, and for the purpose of recovering such rents, [a] profits and other sums [a] shall have, in addition to any powers possessed by a jágírdár or zamíndár, as the case may be, all the powers possessed by a Collector under the law for the time being in force for the recovery of land-revenue due to Government, [b] including the power conferred by section 176 of the Bombay Land-Revenue Code, 1879, [b]:

Bom. V of 1879.

[a-a] These words were substituted for the original words by Act II of 1906, s. 5 (*a*).

[b-b] These words were inserted by Act II of 1906, s. 5 (*b*).

(*Chapter III.—Of the Order of Management.—Section 11. Chapter IV.—Proof of Debts and Scheme for Liquidation.—Section 12.*)

Provided that he shall not, before the liquidation-scheme hereinafter mentioned has been sanctioned, demise the property under management, or any part thereof, for any term exceeding two years, to take effect in possession.

Payments to be made by manager and order thereof.

11. (*1*) From the sums received or recovered under section 10, the manager shall pay—

first, the costs of the management, including the costs of necessary repairs;

secondly, the Government revenue and all debts and liabilities for the time being due or incurred to Government in respect of the property under management;

thirdly, the rent (if any) due to the jágírdár or other superior holder in respect of the said property;

fourthly, such periodical allowances as the Commissioner may from time to time fix for the maintenance of the debtor and his family;

fifthly, the cost of such improvements of the said property as he thinks necessary, and are approved by the Commissioner.

(*2*) The residue shall be retained by the manager for the liquidation, in manner hereinafter provided, of the debts and liabilities mentioned in section 8 other than those so due or incurred to Government, and also for the repayment, either before or after the liquidation of such debts and liabilities, of any loan received by the manager under this Act.

CHAPTER IV.

PROOF OF DEBTS AND SCHEME FOR LIQUIDATION.

Notice to claimants against debtor.

12. On the publication of the order of management, the manager shall publish in the *Sind Official Gazette* a notice in English and Sindhí, calling upon all persons having claims against the debtor, or the

property under management, to notify the same in writing to such manager within six months from the date of the publication, and shall also cause copies of such notice to be exhibited at the mukhtyárkárs' kacherís in the district in which the said property lies, and at such other places as he thinks fit.

Claimants to present full particulars and documents.

13. (*1*) Every such claimant shall, along with his claim, present full particulars thereof.

(*2*) Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the manager along with the claim.

(*3*) If the document is an entry in any book, the claimant shall produce the book to the manager, together with a copy of the entry on which he relies. The manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

(*4*) If any document in the possession or under the control of the claimant is not delivered or produced by him to the manager along with the claim, the manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Claim not duly notified to be barred.

14. Every such claim (other than claims of the Government) not notified to the manager within the time and in the manner required by such notice shall, except as provided in section 19, clause (*d*), be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged:

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of section 12, the manager may receive such claim within the further period of six months from the expiration of the original period of six months.

(Chapter IV.—Proof of Debts and Scheme for Liquidation.—Sections 15-18.)

Determination of debts and liabilities.

15. The manager shall inquire into the history and merits of every claim received under sections 12 and 14, and shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities (if any) justly due to the several claimants.

Power to rank debts and to fix interest.

16. If such amount cannot be paid at once, the manager shall then proceed to rank such debts and liabilities according to the order in which they shall be paid, and to fix the interest (if any) to be paid thereon, respectively, from the date of the final decision thereon to the date of the payment and discharge thereof.

"Liquidation-scheme."

17. (*1*) When the total amount of the debts and liabilities (including those due and incurred to Government) has been finally determined, the manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme (hereinafter called the liquidation-scheme) showing the mode in which it is proposed to pay and discharge the same, whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, or partly in one of such ways and partly in the other.

(*2*) Every liquidation-scheme shall further provide for the continuance of the payments to be made by the manager under section 11, and for the repayment of the money (if any) which the manager proposes to borrow under this Act; and may provide for the improvement of the property under management either from the said income or with the aid of the funds raised as aforesaid, or partly in one of such ways and partly in the other.

Proceedings of Commissioner on submission of liquidation-scheme.

18. The Commissioner may—

(*a*) as often as he thinks fit send back such scheme to the manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation of the scheme, or

(Chapter IV.—Proof of Debts and Scheme for Liquidation.—Section 19. Chapter V.—Of the Proceedings subsequent to Sanction of the Liquidation-scheme.—Section 20.)

(*b*) sanction any liquidation-scheme or any revised liquidation-scheme submitted to him, either as it stands, or subject to such modifications as he may deem expedient.

Power to relinquish management.

19. (*1*) At any time before he has sanctioned a liquidation-scheme under section 18, the Commissioner may, by an order published in the *Sind Official Gazette*, direct that on a date fixed by such order the management shall be relinquished.

(*2*) On the date so fixed—

(*a*) the management shall terminate;

(*b*) the owner of the property under management shall be restored to the possession thereof, subject to any leases granted under section 10;

(*c*) any residue of the rents and profits of the said property retained under section 11, sub-section (*2*), shall be paid to him; and

(*d*) the proceedings, processes, executions and attachments stayed and suspended under section 9, and the debts and liabilities barred by section 14, shall revive.

(*3*) In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which the management has continued shall be excluded.

CHAPTER V.

OF THE PROCEEDINGS SUBSEQUENT TO SANCTION OF THE LIQUIDATION-SCHEME.

Effects of sanctioning scheme.

20. When the Commissioner sanctions the liquidation-scheme, he shall notify the fact of such sanction at such places and in such manner as the

(*Chapter V.—Of the Proceedings subsequent to Sanction of the Liquidation-scheme.—Sections 21-22.*)

Local Government may from time to time by rule direct; and thereupon—

(1) all proceedings, processes, executions and attachments stayed or suspended under section 9 shall be for ever barred, and

(2) every debt or liability due or owing to any person which was proveable before the manager shall be extinguished; and such person shall be entitled to receive under the liquidation-scheme the amount (if any) finally awarded to him under Chapter IV in respect of such debt or liability.

Power to remove mortgagee in possession.

21. (*1*) If the property under management or any part thereof is in the possession of a mortgagee or conditional vendee, the manager, at any time after the liquidation-scheme has been sanctioned as aforesaid, may, by an order in writing, require such incumbrancer to deliver up possession of the same to him at the end of the then current revenue-year.

(*2*) If such incumbrancer refuses or neglects to obey such order, the manager may, without resorting to a Civil Court, enter upon the property and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

(*3*) Nothing in this section shall be held to affect the right of any incumbrancer to receive, under the liquidation-scheme, the amount (if any) awarded to him under Chapter IV.

Power to inquire into consideration given for leases.

[a] **22.** (*1*) If the property under management or any part thereof is in the possession of any person claiming to hold under a lease,[b] the manager, with the sanction of the Commissioner, may inquire into the sufficiency of the consideration for which the lease was granted; and, if such consideration appears

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[a] Section 22 was re-numbered section 22 (*1*) by Act II of 1906, s. 6 (*a*).

[b] Words repealed by Act II of 1906, s. 6 (*b*), are omitted.

(*Chapter V.—Of the Proceedings subsequent to Sanction of the Liquidation-scheme.—Section 23.*)

to him insufficient, may by written order, at any time after the liquidation-scheme has been sanctioned as aforesaid, either set aside the lease or require the person so in possession to pay such consideration for the said lease as the manager thinks fit; and in default of such payment the lease shall be cancelled.

[a] (*2*) Whenever the manager sets aside or cancels a lease under sub-section (*1*), he shall, by written order, award to the lessee such compensation, if any, as may appear to the manager to be equitable in the circumstances; and, subject to the provisions of Chapter VI, no compensation in excess of the amount so awarded shall be recoverable by the lessee in a Civil Court or otherwise.

[a] (*3*) Any compensation awarded by the manager under sub-section (*2*) shall be deemed to be a debt mentioned in section 8, and shall rank in priority to all other debts and liabilities other than debts or liabilities due or incurred to Government.

[a] (*4*) If any lessee whose lease has been so set aside or cancelled refuses or neglects to give up possession when required to do so by the manager, the manager may, without resorting to a Civil Court, enter upon the property and summarily evict therefrom the said lessee and any other person obstructing or resisting on his behalf.

Power to lease.

23. Subject to the rules made under section 33, the manager, after the liquidation-scheme has been sanctioned as aforesaid, shall have power to demise all or any part of the property under management for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of the payment to him of any fine, or without fine, and reserving such rents, and under such conditions as may be agreed upon.

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[a] Sub-sections (*2*), (*3*) and (*4*) were inserted by Act II of 1906, s. 6 (*c*).

(*Chapter V.—Of the Proceedings subsequent to Sanction of the Liquidation-scheme.—Sections 24-26.*)

Power to raise money by mortgage or sale.

24. At any time after the liquidation-scheme has been sanctioned as aforesaid, the manager, with the previous assent of the Commissioner, shall have power to raise any money which may be required for carrying out such scheme—

(*a*) by demising by way of mortgage the whole or any part of the property under management for a term not exceeding twenty years from the publication of the order of management; or

(*b*) by selling, by public auction or by private contract, and upon such terms as the manager thinks fit, such portion of the said property as may appear expedient; or

(*c*) by borrowing money at such rate of interest as appears reasonable to the Local Government.

Separation of part of jágír lands subject to lapse.

25. When jágír land under management is held on this condition, that on the happening of a certain event a share of the land shall lapse, but that it shall be in the discretion of the person then entitled as jágírdár to divide off and relinquish in respect of the lapse such part of the land, being a fair equivalent of that share, as he thinks fit, the manager may, if he deems it convenient for the better exercise of the powers conferred by sections 23 and 24, at any time, after such consultation with persons interested as he thinks necessary, allot by written order, for relinquishment on the happening of the event, such part of the land as he thinks fit; and thereupon that part and no other shall, on the happening of the event, be relinquished.

Manager's receipt to be a discharge.

26. The manager's receipt for any moneys, rents or profits raised or received by him under this Act shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

(*Chapter V.—Of the Proceedings subsequent to Sanction of the Liquidation-scheme.—Sections 27-29.*)

Termination of management.

27. (*1*) When the debts and liabilities mentioned in the liquidation-scheme and the amount of any loan received under section 24, clause (*c*), together with the interest (if any) due thereon, have been paid and discharged, the manager shall publish in the *Sind Official Gazette* a notice fixing a date for the termination of the management.

(*2*) On the date so fixed the management shall terminate, and the owner shall be restored to the possession and enjoyment of the property under management, or of such part thereof as has not been sold by the manager under the power conferred by section 24, but subject to the leases and mortgages (if any) granted and made by the manager under the powers conferred by sections 10, 23 and 24.

Death of debtor during management.

28. If the debtor dies after the publication of the order of management and before the management has been terminated in either of the modes hereinbefore provided,—

(1) the management shall continue and proceed in all respects as if such debtor were still living;

(2) any person succeeding to the whole or any portion of the property under management shall, while such management continues, be subject in respect of such property to the disabilities imposed by section 9, clause (*3*), sub-clauses (*b*) and (*c*); and

(3) no Civil Court or Revenue Court or Office in British India shall, during the continuance of the management, issue any attachment or other process against any portion of the property under management for, or in respect of, any debt or liability incurred by any such person whether before or after his said succession.

Mortgages, etc., made

29. When a jágírdár or zamíndár has been restored under section 27, sub-section (*2*), to the pos-

(*Chapter V.—Of the Proceedings subsequent to Sanction of the Liquidation-scheme.—Section 30. Chapter VI.—Of Appeal and Revision.—Sections 31-32. Chapter VII.—Miscellaneous.—Section 33.*)

session of any property, no mortgage, charge, lease or alienation of such property, or of any part thereof, made or granted by such jágírdár or zamíndár shall be valid as to any time beyond his natural life. by restored jágírdár valid only for his life.

30. Notwithstanding anything contained in this Act, the Commissioner may, at any time after he has, whether before or after the commencement of this Act, sanctioned the liquidation-scheme, revise and modify the same, but not so as to affect the right of any person to receive in full before the termination of the management the amount finally awarded to him under Chapter IV. Power to revise liquidation-scheme.

CHAPTER VI.

OF APPEAL AND REVISION.

31. (*1*) An appeal against any decision or order under sections 14, 15, 16 and 22, and imposing a fine or imprisonment in exercise of the powers conferred by section 37, shall lie to the Commissioner, if preferred within six weeks from the date of such decision or order. Appeal.

(*2*) There shall be no appeal against the decision of the Commissioner on such appeal.

32. The Commissioner may, of his own motion or on the application of any person concerned, call for the proceedings in any case under this Act, and pass such order thereon consistent with the provisions of this Act as he thinks fit. Power to call for proceedings and pass order thereon.

CHAPTER VII.

MISCELLANEOUS.

33. (*1*) The Commissioner, with the previous sanction of the Governor of Bombay in Council, may, from time to time, make rules consistent with this Act— Power to make rules.

(*a*) to regulate the security to be required from subordinate officers under this Act;

(*b*) to regulate the procedure in all cases under this Act;

(*c*) for the guidance of officers inquiring into and determining on claims under Chapter IV; and in particular as to the allowance of interest (if any) on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination, and on the aggregate amount of such debts and liabilities, from the date of the determination down to the date of payment, and as to the order of paying debts and liabilities and repaying any loan received hereunder;

(*d*) for investing any moneys received or raised by the manager under this Act in any Government securities of British India, and for the sale of such securities; and

(*e*) generally to carry out the provisions of this Act.

(*2*) Such rules shall be published in the *Sind Official Gazette*, and shall thereupon have the force of law.

Power to appoint new manager.

34. Whenever the Commissioner thinks fit, he may suspend or remove any manager, and may appoint any officer in the stead of any manager appointed under this Act; and thereupon the management then vested under this Act in the former manager shall become vested in the new manager, and the new manager shall have the same powers as if he had been originally appointed.

Managers to be public servants.

35. Every manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code. XLV of 1860.

Investigation to be deemed a

36. Every investigation conducted by the manager with reference to any claim preferred before him under this Act, or to any matter connected with any

such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code. judicial proceeding.

XLV of 1860.

37. For the purposes of this Act, the manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure. Power to summon witnesses and compel production of documents.

XIV of 1882.

38. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act. Bar of suits.

39. Nothing in this Act precludes the Courts in Sind having jurisdiction in suits relating to the succession to any immoveable property brought under the operation of this Act from entertaining and disposing of such suits; but to all such suits the manager of such property shall be made a party. Saving of jurisdiction of Courts in Sind in respect of certain suits.

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